

# ETHICS TRAINING 2005



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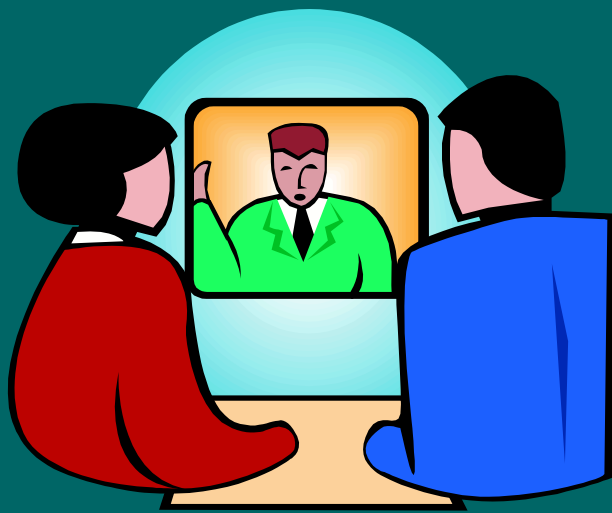
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# ETHICS TRAINING

- **In 2004 - new requirement introduced**
  - Annual requirement
  - ALL Soldiers and civilian employees
- **Help you to understand the ethics rules**
- **Give you a chance to ask questions**





# DISCUSSION TOPICS

- **Code of Ethics – 14 Principles**
- **Contractors in the Workplace**
  - **Ethics issues which confront Soldiers and Civilian Employees daily**
  - **How to stay INSIDE the ethics box**
- **Logistical Support to Non-Federal Entities**
- **Post-Government Employment Issues**

# CODE OF ETHICS

## PRINCIPLES OF ETHICAL CONDUCT

1. Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.

3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

4. An employee shall not, except as [provided for by regulation], solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

5. Employees shall put forth honest effort in the performance of their duties.

6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

7. Employees shall not use public office for private gain.

8. Employees shall act impartially and not give preferential treatment to any private organization or individual.

9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

# **BUILDING BLOCKS**

- **14 Principles**
- **Standards of Ethical Conduct for Employees of the Executive Branch**
  - **Office of Government Ethics**
  - **Applicable to all military officers & civilian employees**
- **DoD 5500.7-R, Joint Ethics Regulation**
  - **Applicable to ALL Soldiers & civilian employees**
  - **Makes OGE regulations applicable to enlisted Soldiers**

# CONTRACTORS IN THE FEDERAL WORKPLACE



# CONTRACTORS IN THE WORKPLACE

- Change in complexion of the workplace
  - Number of contractor personnel has escalated
  - Total number of contractor personnel in federal workplace is unknown
- One Team; Partners; An Army of One!
- Fundamental Differences



# INVESTIGATIONS SHOW:

*“The lines became too easy to cross, and no one was paying attention. I don’t even think most people know where the lines are anymore.”*

*Government Executive, FEB 2011*





# CONCERNS



- **Accepting Gifts from Contractor Personnel**
- **Allowing for “Time-Off”**
- **Recommendation of Contractor Personnel**
- **Working for Contractors after Government**

# ACCEPTING GIFTS

- **Remember:**
  - Contractor personnel are “Prohibited Sources” therefore no gifts are permitted
- **Possible exceptions:**
  - Non-gift exceptions
  - \$20/\$50 rule
  - Discount or benefit
  - Personal relationship



# YOU MAKE THE CALL!

- *The support contractor for your organization wants to offer ALL of the Soldiers and government employees of the organization free tickets to the home opener for the Washington Nationals! The contractor hopes that this will further promote the partnership b/w the Army and the contractor personnel. The tickets have a face value of \$25 but the contractor paid \$15/piece for the tickets.*
- May the Soldiers and employees accept the tickets?



# ANSWER

- **Contractor is a prohibited source - no gifts are permissible unless exception applies**
- **\$20/\$50 rule**
  - **No - look to face value not what contractor paid**
- **Discount or benefit?**
  - **No - offered only to those w/in organization**
- **Personal Relationship?**
  - **No - offered b/c of status**

# FOLLOW-UP

- Is there any way that the Soldiers or employees can accept the tickets?
- Yes - individuals can pay the contractor the face value of the ticket
  - If you pay market value (face value) for the ticket, it is not a gift
- Still may have appearance concerns
  - Ask the ethics counselor!



# YOU MAKE THE CALL!

*A Soldier has been working on the same project for a year with the same contractor employee. The two have developed a friendship outside of the office, often going to each others' homes for dinners and get-togethers with their families. The contractor employee gives the Soldier a birthday present - the IPOD that she has been wanting!*

**May the Soldier accept the gift from the contractor employee?**



# ANSWER

- **Contractor employee is a prohibited source - general prohibition unless exception applies**
- **\$20/\$50 rule?**
  - No - cost of the iPod exceeds
- **Discount or benefit?**
  - Not applicable
- **Personal relationship?**
  - Possibly
  - Need objective review of the facts/circumstances
  - May still have an appearance problem
  - Ask the Ethics Counselor!



# ALLOWING “TIME OFF”

- **Remember:**
  - Federal Personnel System rules/regulations are inapplicable to contractor personnel
  - Contractor personnel time is “billed” to the government
- **Procurement and Fiscal laws & regulations apply**





# YOU MAKE THE CALL!

- *The holiday weekend is fast approaching and the officer-in-charge of the organization invokes the “59-minute rule” for all members of the office - including the contract support team who work with the Soldiers and government employees.*
- Is it permissible to allow the contractor personnel to leave 59-minutes before their scheduled departure time?



# ANSWER

- **Decisions concerning “time off” are to be made by the contractor NOT the government**
- **Contractor personnel are paid pursuant to the terms of the contract with the Army – not according to federal personnel system rules/regulations**
  - **The contractor employee has no authority to modify the terms of the contract**
  - **Only certain government personnel have the authority to modify the terms of the contract**

# FOLLOW-UP



- **Exercise caution:**
  - Organization Day
  - Holiday Party
  - Off-Site Conference
  - Training
- **Coordinate with contracting officer**
- **Ensure that contractor personnel are informed**

# RECOMMENDATIONS FOR CONTRACTOR PERSONNEL



- **Remember:**
  - **Ethical Principle #8**
    - **Employees shall act IMPARTIALLY and not give preferential treatment to any private organization or individual**
  - **Evaluation of performance of contractor**
    - **Evaluation of performance is a matter handled within contracting channels**

# YOU MAKE THE CALL!

*You are the administrative staff supervisor for an organization. The receptionist for your organization is a contractor employee. He has worked in support of the organization for 2 years and has done a terrific job. He has decided to pursue a college education and has asked you for a letter of recommendation discussing his job performance & work ethic. He intends to include the letter of recommendation with his college application.*

**Can you provide the letter of recommendation to the contractor employee?**

# ANSWER

- **Impermissible to give preferential treatment to any non-federal entity**
  - Would need to do the same for all other contractor employees
- **The terms of the contract control**
  - contract provides for the proper method to provide information on performance
  - discuss with contracting officer



# **WORKING FOR CONTRACTORS AFTER GOVERNMENT SERVICE**

- **Remember:**
  - **Prohibitions found in ethics and procurement laws and regulations may prevent a Soldier or civilian employee from receiving compensation from a particular contractor after his government service**
  - **While it may be permissible for a Soldier or civilian employee to work for a particular contractor, it may be impermissible to work on a particular contract or in a particular segment of a contractor's operations**



# YOU MAKE THE CALL!

- *Six months ago, you retired after 30 years of federal service! For 5 years prior to your retirement, you were the program manager for the Hines Helicopter program. The Steelmark Corporation was the contractor for the program. A director of Steelmark approached you recently at a luncheon and began to discuss the possibility of employment with the company.*
- **Would it be permissible for you to accept an**

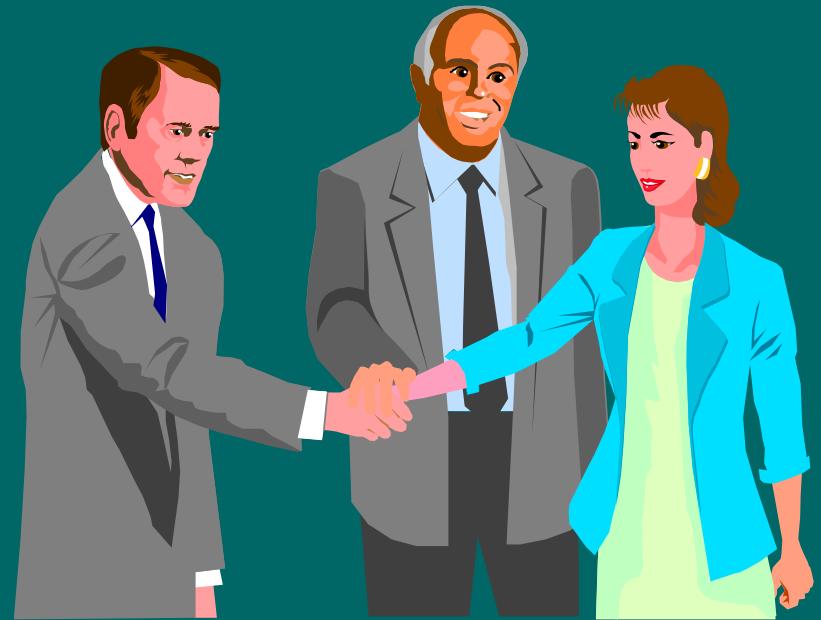


# ANSWER

- **It depends**
- **What are the particulars of the employment offer?**
  - **Would you be working for Steelmark on the Hines contract?**
  - **Would you be working in another segment of the Steelmark Corporation?**
  - **Would you act as a representative of Steelmark to the Army?**
- **Procurement Integrity Act**

# RECAP

- We may operate as a team with our contractors, but we are in different lanes
- Most ethics laws & regulations are inapplicable to contractors
- Be careful of appearance problems
- Ask your ethics counselor!

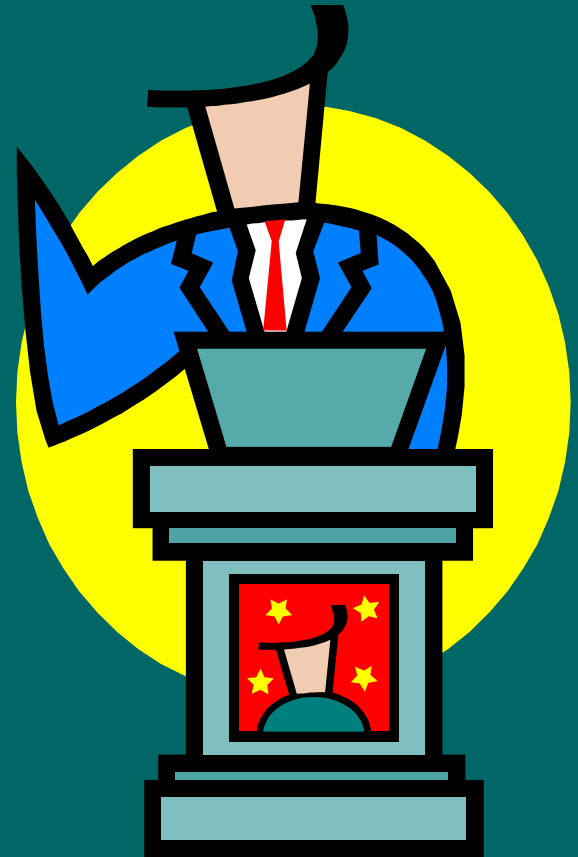


# LOGISTICAL SUPPORT TO NON-FEDERAL ENTITIES



# CONCERNS

- **Improper support to non-federal entities**
- **Appearance of preferential treatment**
- **Misuse of government resources**
  - **property and time**



# **SUPPORT TO NON-FEDERAL ENTITIES**

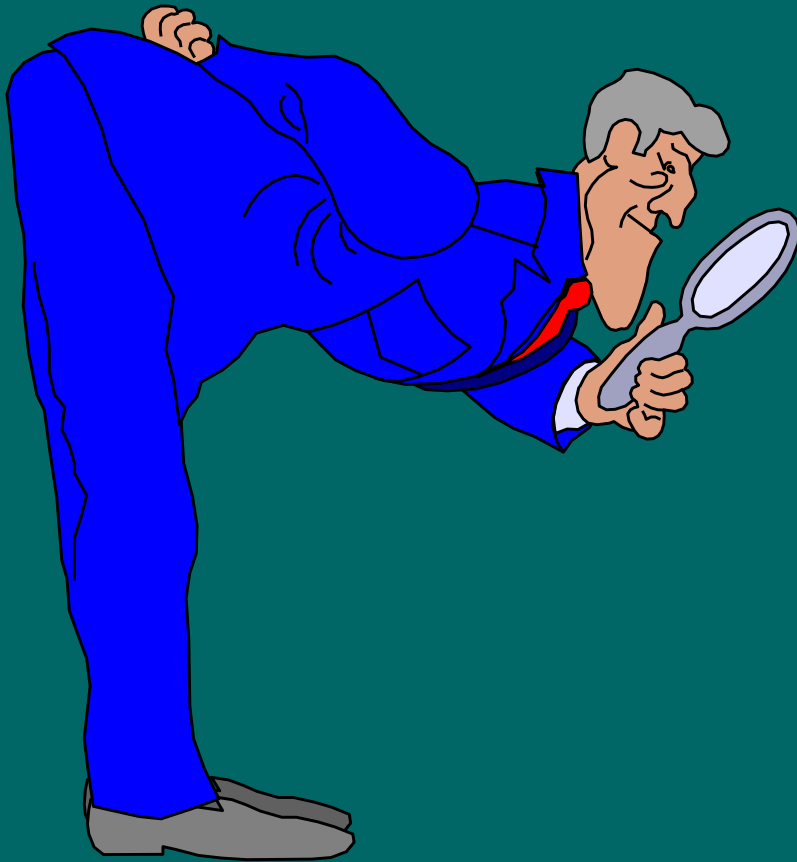
- **Variety of support provided to NFEs**
- **Statutory authority**
  - administrative support to national meetings of military associations
- **Regulatory authority**
  - Joint Ethics Regulation, paragraph 3-211
- **Logistical support**
  - speakers
  - facilities and equipment

# IMPROPER SUPPORT

- **Providing money to the an NFE for an event without benefit of a contract**
- **Support exceeds that which is authorized by statute or regulation**
- **Amount of support provided creates the appearance that the event is actually an Army event**



# PREFERENTIAL TREATMENT



- If providing support to an NFE - must be willing to provide same support to similar NFE
- If provide support to one NFE routinely, need to ask - favoritism?
- Complaints to IG

# MISUSE OF GOVERNMENT RESOURCES

- Time is a government resource, too!
- Speech or presentation is mission-related
  - supports the Army's mission
  - presents the Army's position/message
- Be careful to avoid possible improper discussions
  - future requirements
  - close hold or pre-decisional matters

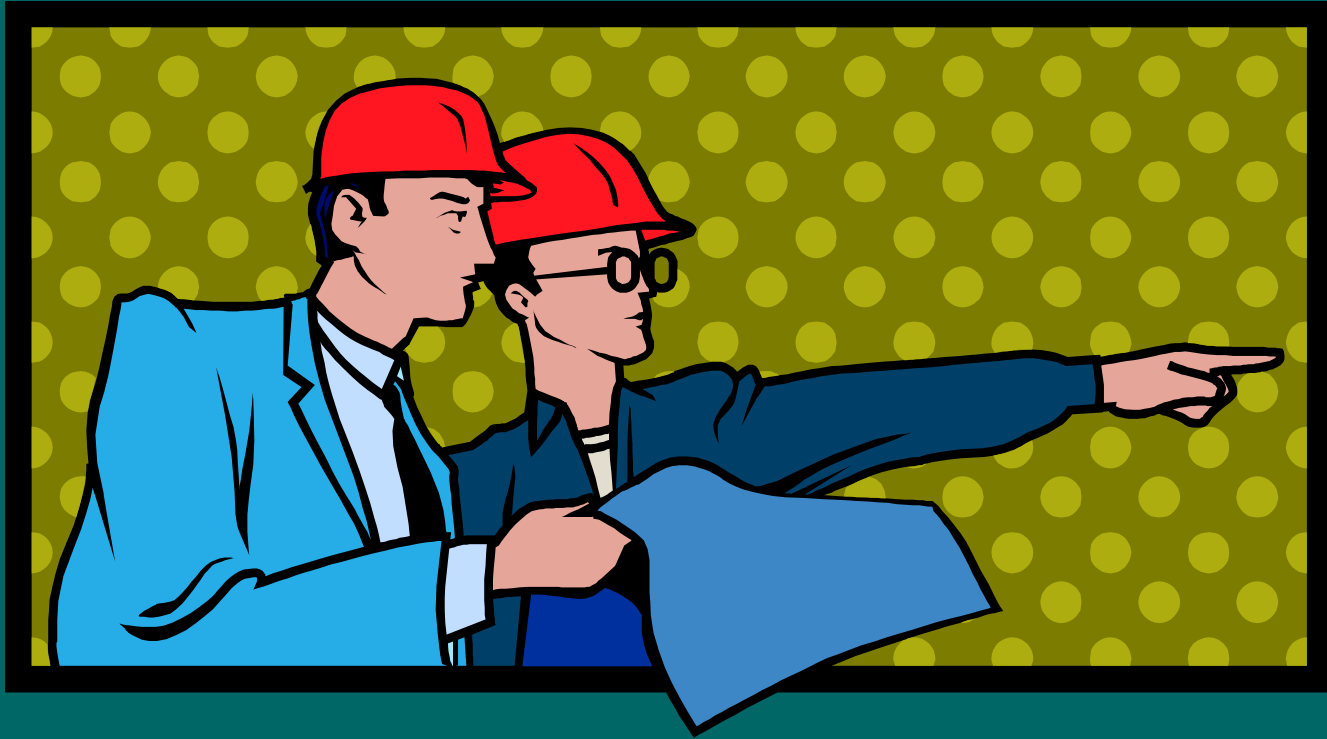




# RECAP

- **Logistical support to NFEs is permissible**
- **Document, document, document**
  - look to JER 3-211 for criteria
- **Avoid appearance of preferential treatment**
  - may mean saying “no” to an NFE
- **Ask your Ethics Counselor!**

# POST GOVERNMENT EMPLOYMENT



# CONCERNS

- **Seeking employment with an NFE**
- **Restrictions that apply to ALL officers and civilian employees**
- **Restrictions that apply to senior officials**
- **Additional restrictions**



# SEEKING EMPLOYMENT

- If seeking or negotiating employment with an NFE:
  - Conflicting financial interest
  - **DISQUALIFY!**
  - Obtain ethics advice from ethics counselor
  - Discuss impact to job with your supervisor

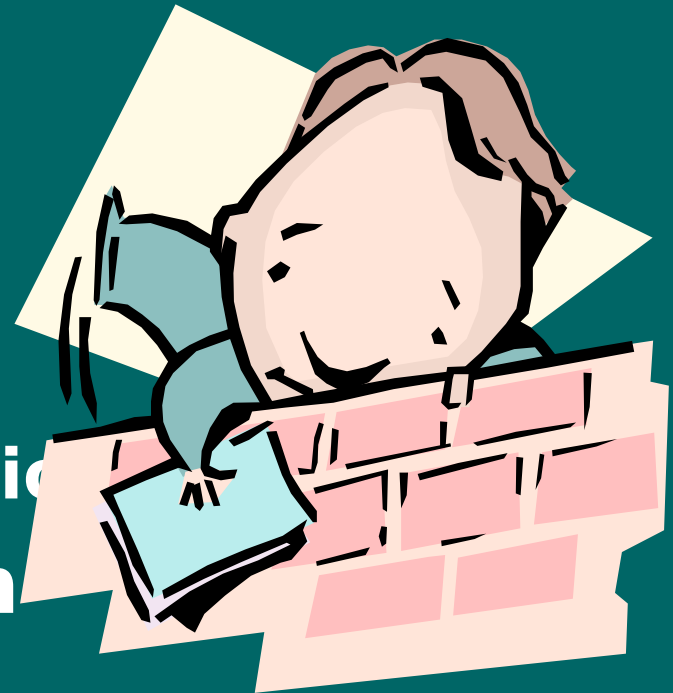


# SEEKING EMPLOYMENT

- **JER, paragraph 8-500**
- **DoD employees shall ensure that:**
  - **prospect of employment does not affect performance or non-performance of official duties**
  - **they do not communicate inside information to prospective employer**
  - **they avoid any activity that affects public's confidence in integrity of the Government**

# Restrictions Applicable to ALL Officers & Employees

- **Lifetime Ban**
  - Personal & substantial participation
- **Two-Year Ban**
  - Official responsibility
- **One-Year Ban**
  - Trade or treaty negotiation
- **Non-Public Information**



# RESTRICTIONS ON MILITARY PERSONNEL



- **Employment with and/or compensation from foreign government**
  - Must get approval from Service Secretary
- **No civil office while on terminal leave**
- **6-month waiting period before working for DoD**
  - This restriction is suspended indefinitely
- **Permissive TDY issues**

# RESTRICTIONS ON SENIOR OFFICIAL

- **Who is a “senior official”?**
- **Flag and General Officers**
- **Civilian employees**
  - **Whose basic pay exceeds \$140,216.50+ (2005)**

- **For 1-Year**
  - **No representing back to the agency**
  - **No aid, advice, or representation of a foreign government or foreign political party**



# CONCLUSION

- **Play it safe – ask your ethics counselor BEFORE taking any action**
- ***LTC Kary Reed, Ms. Myrna Mesa or Mr. Chip Meade***
- ***757-788-4188, 3073, or 3841***
- **[www.hqda.army.mil/ogc/eandf.htm](http://www.hqda.army.mil/ogc/eandf.htm)**
- **[www.jagcnet.army.mil](http://www.jagcnet.army.mil)**
  - **Administrative Law**
  - **Standards of Conduct**

*Questions?*

